State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Jim Doyle, Governor
Scott Hassett, Secretary

101 S. Webster St.
Box 7921
Madison, Wisconsin 53707-7921
Telephone 608-266-2621
FAX 608-267-3579
TTY Access via relay - 711

November 19, 2009

Testimony to the Assembly Natural Resource Committee

I am Carroll Schaal, Lake Partnership Team Leader for the Department of Natural Resources where I manage the lake and aquatic invasive grant programs. We work closely and well with qualified lake associations; they are key partners in the protection and rehabilitation of Wisconsin's lakes. I am here today to convey the Department's response to AB 431 which proposes to exempt qualified lake associations from Aquatic Plant Management (APM) permit application acreage fees when controlling invasive aquatic plants species.

Permit acreage fees are intended to recompense the state for our role in aquatic plant control efforts. Department activities include:

- Onsite inspection and technical assistance to verify the presence of invasive species, identify native plants and fisheries in need of protection, and review control alternatives;
- Onsite supervision and ensure the public is notified of swimming and other water use restrictions after treatment; and
- Compliance monitoring and any necessary enforcement action.

The current fees for chemical control of aquatic invasive species were established with extensive public input and involvement in 1989, almost 18 years ago when NR 107 was last revised. The permit application fee was set at $20 with an additional refundable acreage fee of $25 per acre applied to a maximum of 50 acres. The (1989) fee was based upon a need to recover a greater portion of program activity costs according to the 1989 Environmental Assessment for the Aquatic Plant Management Program.

The fees for mechanical control of aquatic invasive species were set in 2003 (NR 109) at $30 per acre to a maximum of $300.

From 2006 to 2009 the Department collected an average of $122,525 in permit revenue fees for the control of nuisance aquatic plants, most of which were issued for control of invasive aquatic plant species (Eurasian water milfoil and curly leaf pondweed). These fees provide only one third of the state's annual costs of ~$300,000 for the APM permit program.

If this bill is passed, the department estimates a loss of 80% of permit revenue fees ($98,000) and increased non-compliance and costly enforcement. Lake associations are already primary recipients of acreage permits and most other lake communities can easily form a lake association for the purpose of filing APM permits. It is also likely lake districts and municipalities will request you to eliminate their acreage fees as well in the interest of fairness. The aquatic plant management permits balance the public's rights to navigation and enjoyment of our lakes with water quality, fisheries and aquatic life habitat concerns. Increase non-compliance due to lack of permit revenue will result in declines in water clarity and water quality, degraded fish and aquatic life habitat and a decrease in the biological diversity and the productivity of lake sport fisheries.

Since this bill as last proposed, the department has taken significant steps to address the financial burden of an APM application fee for qualified lake associations and other eligible sponsors. Amendments to NR 198 Aquatic Invasive Species (AIS) Prevention and Control Grants (June 2009) allow any APM fees required as part of an AIS grant – funded project to be eligible for reimbursement. It also creates the authority for the department to reimburse qualified lake associations (or other eligible sponsors) any APM permit fees associated with the control of an aquatic invasive species if they demonstrate through record-keeping and compliance-reporting that they conducted their control project in compliance with their permit and APM plan. This way the state can charge application fees necessary to cover state costs (without taxing GPR) and the sponsor could recoup their overhead costs associated with administration of their permit. This incentive package hopefully would also improve compliance and reduce costly enforcement actions. The department is currently processing a limited number of APM permit fee reimbursements for projects conducted in 2009 and expects more robust participation in 2010 and beyond.

We would be happy to work with the bill sponsors and this Committee in developing alternatives. Thank you for your attention and consideration of our comments.

Remarks for Assembly Committee on Natural Resources
Regarding AB 431– Invasive Species Treatment Permit Exemptions
By Representative Donald Friske
November 18, 2009

Thank you Chairman Black and Committee Members. I appreciate you having this hearing today and scheduling this legislation for your consideration.

Lake associations play a unique and important role in maintaining healthy and clean lakes. They are unique from other groups in that members have a special stake in the lake: they either live on it or they have property nearby.

Unlike the DNR, lake associations also have the unique benefit of being able to concentrate effort and funding solely on specific geographic areas. Associations are better able than most to monitor invasive species, educate visitors, and regularly tend to lake health.

In 2005, a Lincoln County and Oneida Counties, the Lake Nokomis Concerned Citizens, raised funds necessary to treat Lake Nokomis, suffering from Eurasian Milfoil. The association spent $400/acre to treat the milfoil. In 2007, it cost $50,000 to treat the lake again and since then the costs have continued to mount.

The rub, however, came from the DNR and State Statutes requiring Lake Nokomis Concerned Citizens raise an additional $1,270 to pay for a DNR permit.

Wisconsin's state constitution has an often cited provision called the "Public Trust Doctrine." The public trust doctrine says the State is in charge of and has both the right <u>and responsibility</u> to maintain the integrity and health of our natural resources.

- **2001**, the State created State Statute 23.24 to combat the spread of aquatic and terrestrial invasive species
- **2002**, the State established a 50% cost share grant program with local governments to controlling invasive
- **2007**, the state increased the cost sharing grant program to 75% of AIS projects and expanded the program beyond local government with additionally funds from both the conservation fund and stewardship bonding.

At a time when the State is trending towards helping non-profit associations fight DNR is struggling to get a firm grasp on the spread of invasive species in Wisconsin, the State should not be keeping hurdles in place for private citizens fighting a common enemy.

A permit fee erodes the ability for lake associations, especially in more rural and economically stressed areas, to fundraise and maximize AIS treatment acreage. An exemption from this permit fee will extend the value of each dollar raised by these groups and encourage public support for grassroots answers to AIS problems.

Thank you again Chairman Black and Committee Members for the opportunity to present this bill to you today.

Invasive Species Treatment Program Permit History

In 2001, the Department of Natural Resources (DNR), Governor McCallum and the Wisconsin State Legislature recognized the growing threat posed by both terrestrial and aquatic invasive species (AIS) to our native natural resources by creating an invasive plants management program.

State Statute 23.24, via Act 16, the State began an effort to combat the spread of invasive species. Included among the provisions of chapter 23.24 was a requirement that removal of invasive species be permitted by DNR. Permit exemptions were created for the following activities:

a) Manually removing aquatic plants from privately owned stream beds;
b) Harvesting of wild rice; and
c) Operating a fish farm

It also allows DNR to waive the permit requirement by rule for any of the following:

a) A person who owns property on which there is a body of water that is entirely confined on the property of that person;
b) A riparian owner who manually removes aquatic plants from a body of water that abuts the owner's property, provided that the removal does not interfere with the rights of other riparian owners;
c) A person controlling purple loosestrife;
d) A person using chemicals controlling bathing beach bacteria;
e) A person using chemicals on plants interfering with drinking water; or
f) A state or local governmental unit that using chemicals to treat a water body to protect public health.

Permit fees were authorized, though not required, to be collected by DNR.

In 2002, via Act 109 authorized DNR to establish a 50% cost share grant program with local governments only ($1.5 M in 2007) to assist controlling (aquatic and terrestrial) invasive species in Wisconsin.

In 2007, via Act 20 the state increased the cost sharing grant program to 75% of AIS projects and removed the restriction for local governments only. This was additionally funded by segregated conservation funds and stewardship bonding.